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15 ATTORNEYS FOR PLAINTIFF

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE EASTERN DISTRICT OF WASHINGTON

18 EQUAL EMPLOYMENT
19 OPPORTUNITY COMMISSION

20 Plaintiff,
21 v.

22 EVANS FRUIT CO., INC.
23 Defendant.
24

CIVIL ACTION NO. CV-11-3093-EFS

COMPLAINT
JURY TRIAL DEMAND

25 COMPLAINT- Page 1 of 12

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NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation and to provide appropriate relief to Gregorio Aguila, Aurelia Garcia, Wendy Granados, Ambrocio Marin, Cirilo Marin, Angela Mendoza, Francisco Ramos, Elodia Sanchez, Gerardo Silva and Norma Valdez ("Charging Parties") who were adversely affected by such practices, including but not limited to intimidation, and threats of physical harm if they continued to assist and participate in the EEOC investigation of sexual harassment charges and litigation of those charges. The alleged conduct led to the Equal Employment Opportunity Commission's application for a Temporary Restraining Order, granted by order of June 24, 2010 (CV-10-3033-LRS, ECF No. 30), and its motion for Preliminary Injunction, granted by order of November 30, 2010 (CV-10-3033-LRS, ECF No. 215).

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted

1 pursuant to section 706(f)(1) and (3) of Title VII of the Civil Rights Act of
2 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) (Title VII), and
3 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.
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5 2. The employment practices alleged to be unlawful were
6 committed within the jurisdiction of the United States District Court for the
7 Eastern District of Washington.
8

9 PARTIES

10 3. Plaintiff, the United States Equal Employment Opportunity
11 Commission (“EEOC” or “Commission”) is the agency of the United States
12 of America charged with the administration, interpretation and enforcement
13 of Title VII, and is expressly authorized to bring this action by Section
14 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3), and Section
15 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.
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18 4. At all relevant times, Defendant Evans Fruit Company, Inc.
19 (“Evans Fruit”) has been a corporation continuously doing business in the
20 State of Washington and has continuously had at least 15 employees.
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22 5. At all relevant times, Defendant Evans Fruit has continuously
23 been an employer engaged in an industry affecting commerce within the
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1 meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000e-(b),
2 (g) and (h).

3 STATEMENT OF CLAIMS

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5 6. More than thirty days prior to the institution of this lawsuit, the
6 Charging Parties on which this complaint is based, filed charges with the
7 Commission alleging violations of Title VII by Defendant Evans Fruit. The
8 Commission issued Letters of Determination finding reasonable cause to
9 believe that Evans Fruit discriminated against the Charging Parties in
10 retaliation for engaging in protected activities and therefore violated Title
11 VII. Prior to instituting this lawsuit, the Commission attempted to eliminate
12 the unlawful employment practices alleged herein and to effect voluntary
13 compliance with Title VII through informal methods of conciliation,
14 conference and persuasion within the meaning of Section 706(b) of Title
15 VII, Section 2000e-5(b). All conditions precedent to the institution of this
16 lawsuit have been fulfilled.

17
18 7. Since at least February 10, 2010, Defendant Evans Fruit has
19 engaged in unlawful employment practices in violation of Section 704(a) of
20 Title VII, 42 U.S.C. § 2000e-3(a), The practices, below, include subjecting
21 the Charging Parties to threats of physical harm and other intimidation if
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1 they continued to cooperate with and assist the Commission in its
2 investigation of sexual harassment charges and its litigation in EEOC v.
3 Evans Fruit Co., Inc. No. CV-10-3033-LRS.
4

5 8. The practices complained of in paragraph 7 by the Charging
6 Parties were carried out at the direction of Mr. Juan Marin, a supervisor at
7 Defendant Evans Fruit. Mr. Marin hired and was the direct supervisor of
8 the Charging Parties when they were employed by Defendant Evans Fruit.
9

10 9. The practices complained of in paragraphs 7 and 8 supported the
11 EEOC's application for a Temporary Restraining Order (CV-10-3033-LRS,
12 ECF No. 7), granted by the Court on June 24, 2010 (CV-10-3033-LRS,
13 ECF No. 30) and its Motion for Preliminary Injunction (CV-10-3033-LRS,
14 ECF No. 65), ordered by the Court on November 30, 2010 (CV-10-3033-
15 LRS, ECF No. 215). The practices include, but are not limited to, the
16 following: On February 10, 2010, at the Sunnyside, Washington public
17 library, EEOC attorneys met with a group of former Evans Fruit employees
18 who had information on claims that Evans Fruit subjected female
19 employees to a sexually hostile, abusive and intimidating work
20 environment. The group included Charging Parties Gregorio Aguila,
21 Aurelia Garcia, Wendy Granados, Ambrocio Marin, Cirilo Marin, Angela
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1 Mendoza, Francisco Ramos, Elodia Sanchez, Gerardo Silva and Norma
2 Valdez.

3 10. During the meeting in the main room of the Sunnyside public
4 library, meeting participant Mr. Aguila recognized Mr. Domingo Cuenca and
5 Mr. Alvaro Rojas, who he believed were still employed by Evans Fruit. Mr.
6 Aguila believed that one of them was taking pictures of meeting participants
7 with his phone.
8

9 11. Soon after the EEOC library meeting, Evans Fruit Supervisor
10 Mr. Alberto Sanchez called Mr. Gregorio Aguila and told Mr. Aguila that Mr.
11 Juan Marin would give him money and work in exchange for information
12 about the meeting at the library with the EEOC or any future meeting and
13 about the identity of any individuals attending the meetings and/or
14 cooperating with the EEOC. Mr. Sanchez told Mr. Aguila that Mr. Marin and
15 Mr. Sanchez knew Mr. Aguila was at the meeting and asked if he was
16 involved in trying to cause problems for Juan Marin. Mr. Aguila denied that
17 he had been at the library, but Mr. Sanchez told him that he had pictures of
18 him and the other meeting participants. Mr. Sanchez said that Mr. Juan
19 Marin and Mr. Sanchez had plans to take care of those who attended the
20 meeting and that they-- he and Farm Manager Marin—were going to get
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1 even with everyone who participated and cooperated with the Commission.
2 Mr. Aguila understood this to mean that physical harm would result to the
3 individuals who had cooperated or who continued to cooperate with and
4 assist the EEOC.
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6 12. The retaliatory threats became severe, chilling, and life
7 threatening such that Mr. Aguila, Ms. Elodia Sanchez, and their baby son
8 relocated to another state in fear for their safety. After the EEOC library
9 meeting, Mr. Juan Marin subjected Mr. Aguila and Ms. Elodia Sanchez to
10 death threats for cooperating with and assisting the EEOC. They live in a
11 constant state of fear that they and their baby son will be killed.
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14 13. Mr. Ambrocio Marin learned that Mr. Juan Marin, his cousin,
15 had specifically solicited and offered various individuals, including Mr.
16 Gregorio Aguila, money to murder him for cooperating with and assisting
17 the EEOC.
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19 14. Mr. Gerardo Silva learned of threats by Mr. Juan Marin against
20 those in attendance at the EEOC library meeting and feared that harm
21 would come to his partner, Ms. Norma Valdez, who was pregnant at the
22 time of attending the EEOC meeting. Upon learning of the threats to
23 meeting participants, Ms. Valdez refused to cooperate with the EEOC in
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1 providing testimony for the EEOC's application for a temporary restraining
2 order and preliminary injunction and refused to file a charge of
3 discrimination until after the Court ordered a preliminary injunction. Mr.
4 Silva and Ms. Valdez live in fear that harm will come to them for
5 cooperating with and assisting the EEOC.
6

7 15. Ms. Angela Mendoza and her husband Mr. Francisco Ramos
8 learned of threats by Mr. Juan Marin against the meeting participants and
9 fear that Mr. Juan Marin will harm them for cooperating with and assisting
10 the EEOC.
11

12 16. Ms. Wendy Granados saw two suspicious individuals observing
13 the meeting participants. After the meeting, Ms. Granados learned that
14 Juan Marin had made threats against individuals who attended the meeting
15 or cooperated with the EEOC attorneys. Ms. Granados fears for her safety
16 and the safety of her family for cooperating with and assisting the EEOC.
17

18 17. Soon after the library meeting, Ms. Aurelia Garcia heard that
19 people spied on the EEOC library meeting participants to see who was
20 talking to the EEOC attorneys. Ms. Garcia believes that she and her
21 children are in danger because Mr. Juan Marin might find them and harm
22 them for cooperating with and assisting the EEOC.
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1 18. Mr. Cirilo Marin was singled out by name as a target for
2 revenge by Mr. Juan Marin, his brother, once he learned of his cooperation
3 with and assistance to the EEOC
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5 19. Upon learning of the threats against meeting participants, the
6 above Charging Parties feared being identified as participants and refused
7 to be named in the EEOC action until after the Court issued a preliminary
8 injunction order.
9

10 20. The practices complained of in paragraphs 7-19, above, have
11 had a chilling effect on, and have adversely affected, the Charging Parties
12 and others in cooperating with and assisting the EEOC in its sexual
13 harassment investigation and litigation against Evans Fruit.
14

15 21. The unlawful employment practices complained of in
16 paragraphs 7-19 above were intentional.
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18 22. The unlawful employment practices complained of in
19 paragraphs 7-19 above were done with malice or with reckless indifference
20 to the federally protected rights of the Charging Parties.
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25 **COMPLAINT-** Page 9 of 12

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PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate on the basis of retaliation.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Charging Parties by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-19 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.

D. Order Defendant to make whole Charging Parties by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7-19 above, including

1 without limitation emotional pain, suffering, and loss of enjoyment of life, in
2 amounts to be determined at trial.

3 E. Order Defendant to pay Charging Parties punitive damages for
4 its malicious and reckless conduct described in paragraphs 7-19 above, in
5 amounts to be determined at trial.
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7 F. Grant such further relief as the Court deems necessary and
8 proper in the public interest.
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10 G. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 15th day of September, 2011.

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